

106TH CONGRESS  
2D SESSION

**S. 761**

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**AMENDMENTS**

# ***In the House of Representatives, U. S.,***

*February 16, 2000.*

*Resolved*, That the bill from the Senate (S. 761) entitled “An Act to regulate interstate commerce by electronic means by permitting and encouraging the continued expansion of electronic commerce through the operation of free market forces, and other purposes”, do pass with the following

## **AMENDMENTS:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2       *This Act may be cited as the “Electronic Signatures*  
3 *in Global and National Commerce Act”.*

4 ***TITLE I—VALIDITY OF ELEC-***  
5 ***TRONIC RECORDS AND SIG-***  
6 ***NATURES FOR COMMERCE***

7 ***SEC. 101. GENERAL RULE OF VALIDITY.***

8       *(a) GENERAL RULE.—With respect to any contract,*  
9 *agreement, or record entered into or provided in, or affect-*  
10 *ing, interstate or foreign commerce, notwithstanding any*  
11 *statute, regulation, or other rule of law, the legal effect, va-*  
12 *lidity, or enforceability of such contract, agreement, or*  
13 *record shall not be denied—*

1           (1) *on the ground that the contract, agreement,*  
 2           *or record is not in writing if the contract, agreement,*  
 3           *or record is an electronic record; or*

4           (2) *on the ground that the contract, agreement,*  
 5           *or record is not signed or is not affirmed by a signa-*  
 6           *ture if the contract, agreement, or record is signed or*  
 7           *affirmed by an electronic signature.*

8           (b) *AUTONOMY OF PARTIES IN COMMERCE.—*

9           (1) *IN GENERAL.—With respect to any contract,*  
 10          *agreement, or record entered into or provided in, or*  
 11          *affecting, interstate or foreign commerce—*

12               (A) *the parties to such contract, agreement,*  
 13               *or record may establish procedures or require-*  
 14               *ments regarding the use and acceptance of elec-*  
 15               *tronic records and electronic signatures accept-*  
 16               *able to such parties;*

17               (B) *the legal effect, validity, or enforce-*  
 18               *ability of such contract, agreement, or record*  
 19               *shall not be denied because of the type or method*  
 20               *of electronic record or electronic signature se-*  
 21               *lected by the parties in establishing such proce-*  
 22               *dures or requirements; and*

23               (C) *nothing in this section requires any*  
 24               *party to use or accept electronic records or elec-*  
 25               *tronic signatures.*

1           (2) *CONSENT TO ELECTRONIC RECORDS.*—Not-  
 2       *withstanding subsection (a) and paragraph (1) of this*  
 3       *subsection—*

4           (A) *if a statute, regulation, or other rule of*  
 5       *law requires that a record be provided or made*  
 6       *available to a consumer in writing, that require-*  
 7       *ment shall be satisfied by an electronic record*  
 8       *if—*

9           (i) *the consumer has affirmatively con-*  
 10       *sented, by means of a consent that is con-*  
 11       *spicuous and visually separate from other*  
 12       *terms, to the provision or availability*  
 13       *(whichever is required) of such record (or*  
 14       *identified groups of records that include*  
 15       *such record) as an electronic record, and*  
 16       *has not withdrawn such consent;*

17          (ii) *prior to consenting, the consumer*  
 18       *is provided with a statement of the hard-*  
 19       *ware and software requirements for access*  
 20       *to and retention of electronic records; and*

21          (iii) *the consumer affirmatively ac-*  
 22       *knowledges, by means of an acknowledge-*  
 23       *ment that is conspicuous and visually sepa-*  
 24       *rate from other terms, that—*

1                   (I) the consumer has an obliga-  
 2                   tion to notify the provider of electronic  
 3                   records of any change in the con-  
 4                   sumer's electronic mail address or  
 5                   other location to which the electronic  
 6                   records may be provided; and

7                   (II) if the consumer withdraws  
 8                   consent, the consumer has the obliga-  
 9                   tion to notify the provider to notify the  
 10                  provider of electronic records of the  
 11                  electronic mail address or other loca-  
 12                  tion to which the records may be pro-  
 13                  vided; and

14                (B) the record is capable of review, reten-  
 15                tion, and printing by the recipient if accessed  
 16                using the hardware and software specified in the  
 17                statement under subparagraph (A)(ii) at the  
 18                time of the consumer's consent; and

19                (C) if such statute, regulation, or other rule  
 20                of law requires that a record be retained, that re-  
 21                quirement shall be satisfied if such record com-  
 22                plies with the requirements of subparagraphs (A)  
 23                and (B) of subsection (c)(1).

24               (c) *RETENTION OF CONTRACTS, AGREEMENTS, AND*  
 25               *RECORDS.*—

1           (1) *ACCURACY AND ACCESSIBILITY.*—If a statute,  
 2           regulation, or other rule of law requires that a con-  
 3           tract, agreement, or record be in writing or be re-  
 4           tained, that requirement is met by retaining an elec-  
 5           tronic record of the information in the contract,  
 6           agreement, or record that—

7                   (A) accurately reflects the information set  
 8                   forth in the contract, agreement, or record after  
 9                   it was first generated in its final form as an  
 10                  electronic record; and

11                  (B) remains accessible, for the period re-  
 12                  quired by such statute, regulation, or rule of law,  
 13                  for later reference, transmission, and printing.

14           (2) *EXCEPTION.*—A requirement to retain a con-  
 15           tract, agreement, or record in accordance with para-  
 16           graph (1) does not apply to any information whose  
 17           sole purpose is to enable the contract, agreement, or  
 18           record to be sent, communicated, or received.

19           (3) *ORIGINALS.*—If a statute, regulation, or  
 20           other rule of law requires a contract, agreement, or  
 21           record to be provided, available, or retained in its  
 22           original form, or provides consequences if the con-  
 23           tract, agreement, or record is not provided, available,  
 24           or retained in its original form, that statute, regula-

1        *tion, or rule of law is satisfied by an electronic record*  
 2        *that complies with paragraph (1).*

3            (4) *CHECKS.*—*If a statute, regulation, or other*  
 4        *rule of law requires the retention of a check, that re-*  
 5        *quirement is satisfied by retention of an electronic*  
 6        *record of all the information on the front and back*  
 7        *of the check in accordance with paragraph (1).*

8            (d) *ABILITY TO CONTEST SIGNATURES AND*  
 9        *CHARGES.*—*Nothing in this section shall be construed to*  
 10       *limit or otherwise affect the rights of any person to assert*  
 11       *that an electronic signature is a forgery, is used without*  
 12       *authority, or otherwise is invalid for reasons that would*  
 13       *invalidate the effect of a signature in written form. The use*  
 14       *or acceptance of an electronic record or electronic signature*  
 15       *by a consumer shall not constitute a waiver of any sub-*  
 16       *stantive protections afforded consumers under the Consumer*  
 17       *Credit Protection Act.*

18           (e) *SCOPE.*—*This Act is intended to clarify the legal*  
 19       *status of electronic records and electronic signatures in the*  
 20       *context of writing and signing requirements imposed by*  
 21       *law. Nothing in this Act affects the content or timing of*  
 22       *any disclosure required to be provided to any consumer*  
 23       *under any statute, regulation, or other rule of law.*

1 **SEC. 102. AUTHORITY TO ALTER OR SUPERSEDE GENERAL**  
 2 **RULE.**

3 (a) *PROCEDURE TO ALTER OR SUPERSEDE.*—*Except*  
 4 *as provided in subsection (b), a State statute, regulation,*  
 5 *or other rule of law may modify, limit, or supersede the*  
 6 *provisions of section 101 if such statute, regulation, or rule*  
 7 *of law—*

8 (1)(A) *constitutes an enactment or adoption of*  
 9 *the Uniform Electronic Transactions Act as reported*  
 10 *to the State legislatures by the National Conference of*  
 11 *Commissioners on Uniform State Laws; or*

12 (B) *specifies the alternative procedures or re-*  
 13 *quirements for the use or acceptance (or both) of elec-*  
 14 *tronic records or electronic signatures to establish the*  
 15 *legal effect, validity, or enforceability of contracts,*  
 16 *agreements, or records; and*

17 (2) *if enacted or adopted after the date of the en-*  
 18 *actment of this Act, makes specific reference to this*  
 19 *Act.*

20 (b) *LIMITATIONS ON ALTERATION OR SUPERSES-*  
 21 *SION.*—*A State statute, regulation, or other rule of law (in-*  
 22 *cluding an insurance statute, regulation, or other rule of*  
 23 *law), regardless of its date of the enactment or adoption,*  
 24 *that modifies, limits, or supersedes section 101 shall not be*  
 25 *effective to the extent that such statute, regulation, or rule—*



1           (1) *discriminates in favor of or against a spe-*  
 2           *cific technology, process, or technique of creating, stor-*  
 3           *ing, generating, receiving, communicating, or authen-*  
 4           *ticating electronic records or electronic signatures;*

5           (2) *discriminates in favor of or against a spe-*  
 6           *cific type or size of entity engaged in the business of*  
 7           *facilitating the use of electronic records or electronic*  
 8           *signatures;*

9           (3) *is based on procedures or requirements that*  
 10          *are not specific or that are not publicly available; or*

11          (4) *is otherwise inconsistent with the provisions*  
 12          *of this title.*

13          (c) **EXCEPTION.**—*Notwithstanding subsection (b), a*  
 14          *State may, by statute, regulation, or rule of law enacted*  
 15          *or adopted after the date of the enactment of this Act, re-*  
 16          *quire specific notices to be provided or made available in*  
 17          *writing if such notices are necessary for the protection of*  
 18          *the public health or safety of consumers. A consumer may*  
 19          *not, pursuant to section 101(b)(2), consent to the provision*  
 20          *or availability of such notice solely as an electronic record.*

21          **SEC. 103. SPECIFIC EXCLUSIONS.**

22          (a) **EXCEPTED REQUIREMENTS.**—*The provisions of*  
 23          *section 101 shall not apply to a contract, agreement, or*  
 24          *record to the extent it is governed by—*

1           (1) *a statute, regulation, or other rule of law*  
 2           *governing the creation and execution of wills, codicils,*  
 3           *or testamentary trusts;*

4           (2) *a statute, regulation, or other rule of law*  
 5           *governing adoption, divorce, or other matters of fam-*  
 6           *ily law;*

7           (3) *the Uniform Commercial Code, as in effect in*  
 8           *any State, other than sections 1-107 and 1-206 and*  
 9           *Articles 2 and 2A;*

10          (4) *any requirement by a Federal regulatory*  
 11          *agency or self-regulatory organization that records be*  
 12          *filed or maintained in a specified standard or stand-*  
 13          *ards (including a specified format or formats), except*  
 14          *that nothing in this paragraph relieves any Federal*  
 15          *regulatory agency of its obligations under the Govern-*  
 16          *ment Paperwork Elimination Act (title XVII of Pub-*  
 17          *lic Law 105–277);*

18          (5) *the Uniform Anatomical Gift Act; or*

19          (6) *the Uniform Health-Care Decisions Act.*

20          (b) *ADDITIONAL EXCEPTIONS.—The provisions of sec-*  
 21          *tion 101 shall not apply to—*

22          (1) *any contract, agreement, or record entered*  
 23          *into between a party and a State agency if the State*  
 24          *agency is not acting as a market participant in or*  
 25          *affecting interstate commerce;*

1           (2) *court orders or notices, or official court docu-*  
 2           *ments (including briefs, pleadings, and other*  
 3           *writings) required to be executed in connection with*  
 4           *court proceedings; or*

5           (3) *any notice concerning—*

6                 (A) *the cancellation or termination of util-*  
 7                 *ity services (including water, heat, and power);*

8                 (B) *default, acceleration, repossession, fore-*  
 9                 *closure, or eviction, or the right to cure, under*  
 10                 *a credit agreement secured by, or a rental agree-*  
 11                 *ment for, a primary residence of an individual;*  
 12                 *or*

13                 (C) *the cancellation or termination of*  
 14                 *health insurance or benefits or life insurance*  
 15                 *benefits (excluding annuities).*

16 **SEC. 104. STUDY.**

17           (a) *FOLLOWUP STUDY.*—*Within 5 years after the date*  
 18           *of the enactment of this Act, the Secretary of Commerce,*  
 19           *acting through the Assistant Secretary for Communications*  
 20           *and Information, shall conduct an inquiry regarding any*  
 21           *State statutes, regulations, or other rules of law enacted or*  
 22           *adopted after such date of the enactment pursuant to section*  
 23           *102(a), and the extent to which such statutes, regulations,*  
 24           *and rules comply with section 102(b).*

1       (b) *REPORT.*—*The Secretary shall submit a report to*  
 2 *the Congress regarding the results of such inquiry by the*  
 3 *conclusion of such 5-year period.*

4       (c) *ADDITIONAL STUDY OF DELIVERY.*—*Within 18*  
 5 *months after the date of the enactment of this Act, the Sec-*  
 6 *retary of Commerce shall conduct an inquiry regarding the*  
 7 *effectiveness of the delivery of electronic records to con-*  
 8 *sumers using electronic mail as compared with delivery of*  
 9 *written records via the United States Postal Service and*  
 10 *private express mail services. The Secretary shall submit*  
 11 *a report to the Congress regarding the results of such in-*  
 12 *quiry by the conclusion of such 18-month period.*

13 **SEC. 105. DEFINITIONS.**

14       *For purposes of this title:*

15           (1) *ELECTRONIC RECORD.*—*The term “electronic*  
 16 *record” means a writing, document, or other record*  
 17 *created, stored, generated, received, or communicated*  
 18 *by electronic means.*

19           (2) *ELECTRONIC SIGNATURE.*—*The term “elec-*  
 20 *tronic signature” means information or data in elec-*  
 21 *tronic form, attached to or logically associated with*  
 22 *an electronic record, and executed or adopted by a*  
 23 *person or an electronic agent of a person, with the in-*  
 24 *tent to sign a contract, agreement, or record.*

1           (3) *ELECTRONIC*.—The term “electronic” means  
 2           of or relating to technology having electrical, digital,  
 3           magnetic, optical, electromagnetic, or similar capa-  
 4           bilities regardless of medium.

5           (4) *ELECTRONIC AGENT*.—The term “electronic  
 6           agent” means a computer program or an electronic or  
 7           other automated means used independently to initiate  
 8           an action or respond to electronic records in whole or  
 9           in part without review by an individual at the time  
 10          of the action or response.

11          (5) *RECORD*.—The term “record” means infor-  
 12          mation that is inscribed on a tangible medium or  
 13          that is stored in an electronic or other medium and  
 14          is retrievable in perceivable form.

15          (6) *FEDERAL REGULATORY AGENCY*.—The term  
 16          “Federal regulatory agency” means an agency, as that  
 17          term is defined in section 552(f) of title 5, United  
 18          States Code, that is authorized by Federal law to im-  
 19          pose requirements by rule, regulation, order, or other  
 20          legal instrument.

21          (7) *SELF-REGULATORY ORGANIZATION*.—The  
 22          term “self-regulatory organization” means an organi-  
 23          zation or entity that is not a Federal regulatory agen-  
 24          cy or a State, but that is under the supervision of a  
 25          Federal regulatory agency and is authorized under

1       *Federal law to adopt and administer rules applicable*  
 2       *to its members that are enforced by such organization*  
 3       *or entity, by a Federal regulatory agency, or by an-*  
 4       *other self-regulatory organization.*

5       ***TITLE II—DEVELOPMENT AND***  
 6       ***ADOPTION OF ELECTRONIC***  
 7       ***SIGNATURE PRODUCTS AND***  
 8       ***SERVICES***

9       ***SEC. 201. TREATMENT OF ELECTRONIC SIGNATURES IN***  
 10       ***INTERSTATE AND FOREIGN COMMERCE.***

11       *(a) INQUIRY REGARDING IMPEDIMENTS TO COM-*  
 12       *MERCE.—*

13               *(1) INQUIRIES REQUIRED.—Within 180 days*  
 14       *after the date of the enactment of this Act, and bien-*  
 15       *ennially thereafter, the Secretary of Commerce, acting*  
 16       *through the Assistant Secretary for Communications*  
 17       *and Information, shall complete an inquiry to—*

18                       *(A) identify any domestic and foreign im-*  
 19       *pediments to commerce in electronic signature*  
 20       *products and services and the manners in which*  
 21       *and extent to which such impediments inhibit*  
 22       *the development of interstate and foreign com-*  
 23       *merce;*

24                       *(B) identify constraints imposed by foreign*  
 25       *nations or international organizations that con-*

1        *stitute barriers to providers of electronic signa-*  
 2        *ture products or services; and*

3                *(C) identify the degree to which other na-*  
 4        *tions and international organizations are com-*  
 5        *plying with the principles in subsection (b)(2).*

6                *(2) SUBMISSION.—The Secretary shall submit a*  
 7        *report to the Congress regarding the results of each*  
 8        *such inquiry within 90 days after the conclusion of*  
 9        *such inquiry. Such report shall include a description*  
 10       *of the actions taken by the Secretary pursuant to sub-*  
 11       *section (b) of this section.*

12        *(b) PROMOTION OF ELECTRONIC SIGNATURES.—*

13                *(1) REQUIRED ACTIONS.—The Secretary of Com-*  
 14        *merce, acting through the Assistant Secretary for*  
 15        *Communications and Information, shall promote the*  
 16        *acceptance and use, on an international basis, of elec-*  
 17        *tronic signatures in accordance with the principles*  
 18        *specified in paragraph (2) and in a manner con-*  
 19        *sistent with section 101 of this Act. The Secretary of*  
 20        *Commerce shall take all actions necessary in a man-*  
 21        *ner consistent with such principles to eliminate or re-*  
 22        *duce, to the maximum extent possible, the impedi-*  
 23        *ments to commerce in electronic signatures, including*  
 24        *those identified in the inquiries under subsection (a)*

1     *for the purpose of facilitating the development of*  
2     *interstate and foreign commerce.*

3             (2) *PRINCIPLES.—The principles specified in*  
4     *this paragraph are the following:*

5             (A) *Free markets and self-regulation, rather*  
6     *than Government standard-setting or rules,*  
7     *should govern the development and use of elec-*  
8     *tronic records and electronic signatures.*

9             (B) *Neutrality and nondiscrimination*  
10    *should be observed among providers of and tech-*  
11    *nologies for electronic records and electronic sig-*  
12    *natures.*

13            (C) *Parties to a transaction should be per-*  
14    *mitted to establish requirements regarding the*  
15    *use of electronic records and electronic signatures*  
16    *acceptable to such parties.*

17            (D) *Parties to a transaction—*

18                (i) *should be permitted to determine*  
19    *the appropriate authentication technologies*  
20    *and implementation models for their trans-*  
21    *actions, with assurance that those tech-*  
22    *nologies and implementation models will be*  
23    *recognized and enforced; and*

24                (ii) *should have the opportunity to*  
25    *prove in court or other proceedings that*



1                    *their authentication approaches and their*  
2                    *transactions are valid.*

3                    *(E) Electronic records and electronic signa-*  
4                    *tures in a form acceptable to the parties should*  
5                    *not be denied legal effect, validity, or enforce-*  
6                    *ability on the ground that they are not in writ-*  
7                    *ing.*

8                    *(F) De jure or de facto imposition of stand-*  
9                    *ards on private industry through foreign adop-*  
10                   *tion of regulations or policies with respect to*  
11                   *electronic records and electronic signatures*  
12                   *should be avoided.*

13                   *(G) Paper-based obstacles to electronic*  
14                   *transactions should be removed.*

15                   *(c) CONSULTATION.—In conducting the activities re-*  
16                   *quired by this section, the Secretary shall consult with users*  
17                   *and providers of electronic signature products and services*  
18                   *and other interested persons.*

19                   *(d) PRIVACY.—Nothing in this section shall be con-*  
20                   *strued to require the Secretary or the Assistant Secretary*  
21                   *to take any action that would adversely affect the privacy*  
22                   *of consumers.*

23                   *(e) DEFINITIONS.—As used in this section, the terms*  
24                   *“electronic record” and “electronic signature” have the*

1 *meanings provided in section 104 of the Electronic Signa-*  
 2 *tures in Global and National Commerce Act.*

3 ***TITLE III—USE OF ELECTRONIC***  
 4 ***RECORDS AND SIGNATURES***  
 5 ***UNDER FEDERAL SECURITIES***  
 6 ***LAW***

7 ***SEC. 301. GENERAL VALIDITY OF ELECTRONIC RECORDS***  
 8 ***AND SIGNATURES.***

9 *Section 3 of the Securities Exchange Act of 1934 (15*  
 10 *U.S.C. 78c) is amended by adding at the end the following*  
 11 *new subsection:*

12 *“(h) REFERENCES TO WRITTEN RECORDS AND SIGNA-*  
 13 *TURES.—*

14 *“(1) GENERAL VALIDITY OF ELECTRONIC*  
 15 *RECORDS AND SIGNATURES.—Except as otherwise*  
 16 *provided in this subsection—*

17 *“(A) if a contract, agreement, or record (as*  
 18 *defined in subsection (a)(37)) is required by the*  
 19 *securities laws or any rule or regulation there-*  
 20 *under (including a rule or regulation of a self-*  
 21 *regulatory organization), and is required by*  
 22 *Federal or State statute, regulation, or other rule*  
 23 *of law to be in writing, the legal effect, validity,*  
 24 *or enforceability of such contract, agreement, or*  
 25 *record shall not be denied on the ground that the*

1       *contract, agreement, or record is not in writing*  
2       *if the contract, agreement, or record is an elec-*  
3       *tronic record;*

4               “(B) if a contract, agreement, or record is  
5       *required by the securities laws or any rule or*  
6       *regulation thereunder (including a rule or regu-*  
7       *lation of a self-regulatory organization), and is*  
8       *required by Federal or State statute, regulation,*  
9       *or other rule of law to be signed, the legal effect,*  
10       *validity, or enforceability of such contract, agree-*  
11       *ment, or record shall not be denied on the ground*  
12       *that such contract, agreement, or record is not*  
13       *signed or is not affirmed by a signature if the*  
14       *contract, agreement, or record is signed or af-*  
15       *firmed by an electronic signature; and*

16               “(C) if a broker, dealer, transfer agent, in-  
17       *vestment adviser, or investment company enters*  
18       *into a contract or agreement with, or accepts a*  
19       *record from, a customer or other counterparty,*  
20       *such broker, dealer, transfer agent, investment*  
21       *adviser, or investment company may accept and*  
22       *rely upon an electronic signature on such con-*  
23       *tract, agreement, or record, and such electronic*  
24       *signature shall not be denied legal effect, valid-*

1           *ity, or enforceability because it is an electronic*  
 2           *signature.*

3           “(2) *IMPLEMENTATION.*—

4                 “(A) *REGULATIONS.*—*The Commission may*  
 5                 *prescribe such regulations as may be necessary to*  
 6                 *carry out this subsection consistent with the pub-*  
 7                 *lic interest and the protection of investors.*

8                 “(B) *NONDISCRIMINATION.*—*The regulations*  
 9                 *prescribed by the Commission under subpara-*  
 10                 *graph (A) shall not—*

11                         “(i) *discriminate in favor of or against*  
 12                         *a specific technology, method, or technique*  
 13                         *of creating, storing, generating, receiving,*  
 14                         *communicating, or authenticating electronic*  
 15                         *records or electronic signatures; or*

16                         “(ii) *discriminate in favor of or*  
 17                         *against a specific type or size of entity en-*  
 18                         *gaged in the business of facilitating the use*  
 19                         *of electronic records or electronic signatures.*

20           “(3) *EXCEPTIONS.*—*Notwithstanding any other*  
 21           *provision of this subsection—*

22                 “(A) *the Commission, an appropriate regu-*  
 23                 *latory agency, or a self-regulatory organization*  
 24                 *may require that records be filed or maintained*  
 25                 *in a specified standard or standards (including*

1        *a specified format or formats) if the records are*  
 2        *required to be submitted to the Commission, an*  
 3        *appropriate regulatory agency, or a self-regu-*  
 4        *latory organization, respectively, or are required*  
 5        *by the Commission, an appropriate regulatory*  
 6        *agency, or a self-regulatory organization to be*  
 7        *retained; and*

8                *“(B) the Commission may require that con-*  
 9        *tracts, agreements, or records relating to pur-*  
 10        *chases and sales, or establishing accounts for*  
 11        *conducting purchases and sales, of penny stocks*  
 12        *be manually signed, and may require such man-*  
 13        *ual signatures with respect to transactions in*  
 14        *similar securities if the Commission determines*  
 15        *that such securities are susceptible to fraud and*  
 16        *that such fraud would be deterred or prevented*  
 17        *by requiring manual signatures.*

18                *“(4) RELATION TO OTHER LAW.—The provisions*  
 19        *of this subsection apply in lieu of the provisions of*  
 20        *title I of the Electronic Signatures in Global and Na-*  
 21        *tional Commerce Act to a contract, agreement, or*  
 22        *record (as defined in subsection (a)(37)) that is re-*  
 23        *quired by the securities laws.*

24                *“(5) SAVINGS PROVISION.—Nothing in this sub-*  
 25        *section applies to any rule or regulation under the se-*

1       curities laws (including a rule or regulation of a self-  
 2       regulatory organization) that is in effect on the date  
 3       of the enactment of the *Electronic Signatures in Glob-*  
 4       *al and National Commerce Act* and that requires a  
 5       contract, agreement, or record to be in writing, to be  
 6       submitted or retained in original form, or to be in a  
 7       specified standard or standards (including a specified  
 8       format or formats).

9               “(6) *DEFINITIONS.*—As used in this subsection:

10               “(A) *ELECTRONIC RECORD.*—The term ‘elec-  
 11       tronic record’ means a writing, document, or  
 12       other record created, stored, generated, received,  
 13       or communicated by electronic means.

14               “(B) *ELECTRONIC SIGNATURE.*—The term  
 15       “electronic signature” means information or  
 16       data in electronic form, attached to or logically  
 17       associated with an electronic record, and exe-  
 18       cuted or adopted by a person or an electronic  
 19       agent of a person, with the intent to sign a con-  
 20       tract, agreement, or record.

21               “(C) *ELECTRONIC.*—The term ‘electronic’  
 22       means of or relating to technology having elec-  
 23       trical, digital, magnetic, optical, electromagnetic,  
 24       or similar capabilities regardless of medium.”.

Amend the title so as to read “An Act to facilitate the use of electronic records and signatures in interstate or foreign commerce.”.

Attest:

*Clerk.*